IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

WEALTH TAX REFERENCE No 20 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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COMMISSIONER OF WEALTH-TAX

Versus

VIJAYSINH CHIMANBHAI

Appearance:

1. WEALTH TAX REFERENCE No. 20 of 1986

MR BB NAIK for MR MANISH R BHATT for Petitioner No. 1

MR MANISH J. SHAH for MR JP SHAH for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 24/07/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

At the instance of the revenue, the following questions have been referred to this court for its opinion by the Income Tax Appellate Tribunal, Ahmedabad Bench 'A' under the provisions of sec. 27(1) of the Wealth-tax Act, 1957.

"1. Whether the Appellate Tribunal is right in law in directing the Wealth-tax Officer to apply section 7(4) of the Wealth-tax Act, 1957 for the valuation of the Shahibag Bungalow for the Assessment Year 1972-73?

2. Whether the Appellate Tribunal is right in law and on facts in holding that the lands at Hansol are agricultural in nature?"

2. Learned advocate Shri B.B. Naik has appeared for the applicant whereas Shri Manish J. Shah has appeared for the respondent assessee.

3. So far as question No. 1 is concerned, at the time of hearing of this reference, it has been submitted by the learned advocates that in the case of the assessee himself, for the Assessment Year 1973-74 a similar question was referred to this court and this court had answered the said question in the affirmative i.e. in favour of the assessee and against the revenue.

4. In view of the said factual position, we answer question No. 1 in the affirmative i.e. in favour of the assessee and against the revenue.

5. So far as the second question is concerned, it pertains to the nature of lands belonging to the assessee whcih are situated at Hansol. It has been submitted by the learned advocates that the Tribunal, even for the subsequent assessment years, was of the view that the lands belonging to the respondent assessee at Hansol were agricultural in nature. The revenue had accepted the said decision of the Tribunal.

6. In view of the fact that the lands in question have been treated as agricultural land for the subsequent years, in our opinion, there should not be any reason for this court to take a contrary view especially when there is no evidence on record to take a different view than the view expressed by the Trsibunal. In the circumstances, we also hold that the lands belonging to the respondent assessee situated at Hansol are

agricultural in nature. We, therefore, answer question No. 2 in the affirmative i.e. in favour of the assessee and against the revenue.

The reference thus stands disposed of with no order as to costs.

(A.R. Dave, J.)

(D.A. Mehta, J.)

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